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असाधारण

EXTRAORDINARY

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PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bill was introduced in Lok Sabha on 7th April, 1977 --
BILL No 20 of 1977

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Twenty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Forty-third Amendment) Act, 1977.

Short
title.

2. Article 31D of the Constitution shall be omitted.

Omission
of arti-
cle 31D.

3. (1) In article 83 of the Constitution, in clause (2), for the words "six years" in the two places where they occur, the words "five years" shall be substituted.

Amend-
ment of
article
83.

(2) The amendments made by sub-section (1) to clause (2) of article 83 shall apply also to the House of the People in existence on the date of coming into force of this section without prejudice to the power of Parliament with respect to the extension of the duration of that House under the proviso to that clause.

4. (1) In article 172 of the Constitution, in clause (1), for the words "six years" in the two places where they occur, the words "five years" shall be substituted

Amend-
ment of
article
172.

(2) The amendments made by sub-section (1) to clause (1) of article 172—

(a) shall apply to the existing Legislative Assemblies of the States of Gujarat, Kerala, Orissa, Uttar Pradesh, Manipur and Sikkim

without prejudice to the power of Parliament with respect to the extension of the duration of any such Assembly under the proviso to the said clause (1);

(b) shall not apply to the existing Legislative Assemblies of other States but every such Legislative Assembly shall, unless sooner dissolved, stand dissolved on the expiry of three months from the date of coming into force of this section.

Explanation.—In this sub-section, “existing Legislative Assembly” in relation to any State means the Legislative Assembly, if any, of that State in existence on the date of coming into force of this section.

Amend-
ment of
article
329.

5. In article 329 of the Constitution, for the words, figures and letter “Notwithstanding anything in this Constitution but subject to the provisions of article 329A—”, the words “Notwithstanding anything in this Constitution—” shall be substituted and shall be deemed to have been substituted with effect from the 10th day of August, 1975.

Omission
of arti-
cle 329A
and
saving.

6. (1) Article 329A of the Constitution shall be omitted and shall be deemed to have been omitted with effect from the 10th day of August, 1975.

(2) Any petition calling in question an election referred to in article 329A aforesaid which is pending immediately before the date on which this Act receives the assent of the President shall abate but an election petition referred to in clause (b) of article 329 of the Constitution for calling in question such election may be presented under any such law as is referred to in that clause within forty-five days of the said date.

Amend-
ment of
article
371F.

7. In article 371F of the Constitution, in clause (c), for the words “six years”, the words “five years” shall be substituted and for the words “five years” in the two places where they occur, the words “four years” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

By section 5 of the Constitution (Forty-second Amendment) Act, 1976, article 31D was introduced in the Constitution. Article 31D provides that no law providing for the prevention or prohibition of anti-national activities or the prevention of formation of, or the prohibition of, anti-national associations, shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14, article 19 or article 31 of the Constitution. The powers of Parliament under article 31D of the Constitution to make laws for dealing with anti-national activities and anti-national associations are of a sweeping nature. There was severe criticism against this measure at the time of promotion of this measure in Parliament. One of the objections was that the existing laws were adequate to deal with unlawful activities and that even if they were not, such laws could be amended but there was no necessity to amend the Constitution. It was also pointed out that the provisions were so widely worded that even a *bona fide* agitation could be characterized as anti-national activity. Lastly, in so far as the said article covers matters which otherwise would fall within the State List, the article involves an undue encroachment into the State field. For all the reasons aforesaid it is proposed to omit the said article.

2 The Constitution (Forty-second Amendment) Act amended *inter alia* articles 83 and 172 of the Constitution so as to specify that the duration of the House of the People and of the State Legislatures shall be six years instead of five years. People are the ultimate safeguards of democracy and it is necessary to ensure that people's mandate as to their representatives in the State Legislative Assemblies and in Lok Sabha is obtained at reasonable intervals. The extension of the duration to six years by the aforesaid Amendment Act is not in accordance with proper democratic traditions. It is therefore proposed to revert to the position as it obtained before the amendments made by the Constitution (Forty-second Amendment) Act, 1976 came into force. As some of the existing State Legislative Assemblies have already completed their five year term, a special provision has been made so that they continue to function till such time as elections for constituting new Legislative Assemblies can be completed.

3 By the Constitution (Thirty-ninth Amendment) Act, 1975, a new article was introduced in the Constitution namely, article 329A, making special provision as to elections to Parliament in the case of Prime Minister and Speaker. Article 329 of the Constitution provides that no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature. It is considered that this general provision should also be applicable in the

case of Prime Minister and Speaker and there is no need to provide for a special authority or machinery in the case of the Prime Minister and the Speaker. It is therefore proposed to delete article 329A.

4. The Bill seeks to achieve the above objects.

NEW DELHI;

SHANTI BHUSHAN.

The 5th April, 1977

S. L. SHAKDHER,
Secretary-General.